

**GOA STATE INFORMATION COMMISSION**

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**Appeal No. 217/2023/SCIC**

Saviola Fernandes,  
E-3/V, Anand Residency,  
Airport Road, Chicalim Goa  
V/s

.....Appellant

Mr. Amit Sankhalkar,  
Public Information Officer,  
Village Panchayat of Chicalim,  
Chicalim, Mormugao, Goa

...Respondents

**Shri. Vishwas Satarkar**, State Chief Information Commissioner

**Filed on: 17/03/2023**

**Decided on: 26/02/2024**

**ORDER**

1. The Appellant, Saviola Fernandances R/o. E-3/V, Anand Residency, Airport Road, Chicalim, Goa 403711 vide her application filed through postal service dated 21/02/2023, under Section 6(1) of the Right to Information Act, 2005 (hereinafter to be referred as Act) sought four point information from the Public Information Officer (PIO), Village Panchayat Chicalim, Mormugao, Goa.
2. The said application was not responded to by the PIO within stipulated time, deeming the same as refusal the Appellant filed first appeal before the Block Development Officer, Mormugao, Vasco-Da-Gama, Goa on 12/04/2023, being the First Appellate Authority (FAA).

3. The FAA vide its order dated 26/05/2023 partly allowed the first appeal directing the PIO to furnish the information free of cost with regards to point No. 1 and 3 to the Appellant within ten days.
4. Since the PIO failed and neglected to comply with the order of the FAA dated 26/05/2023, the Appellant preferred this second appeal before the Commission under Section 19(3) of the Act.
5. Notices were issued to the parties pursuant to which the Appellant Ms. Saviola Fernandes appeared in person on 08/08/2023, Adv. Narayan R. Pai put his appearance on behalf of the PIO, on 08/08/2023, and submitted that he is ready and willing to provide the information, accordingly the matter was posted for compliance on 11/10/2023.
6. In the course of hearing on 08/11/2023, Adv. N. R. Pai appeared on behalf of the PIO and furnished six sets of information and he offered for the inspection of files. To sort out the matter amicably, with consent of both the parties the Commission fixed a joint inspection of records on 28/11/2023 between 10.30 a.m. to 11.30 a.m. in the office of the PIO, at Chicalim, Murmugao Goa, directing the Appellant to remain present in the office of the PIO on fixed time and day and indicate the required documents and matter was posted for clarification on 05/12/2023.
7. On 05/12/2023, the Appellant and Adv. N. R. Pai appeared and submitted that as per the direction of the Commission the Appellant carried out the inspection and identified the

documents and the PIO accordingly furnished the information to the Appellant except the copy of resolution dated 13/12/2011. Adv. N. R. Pai submitted that said information is not available in the records of the public authority.

8. Since the said information is not available in the records of the public authority, the Commission under Rule 5(i) of the Goa State Information Commission (Appeal procedure) Rules, 2006 directed the PIO to file an affidavit to that effect.

9. Accordingly in the course of hearing on 05/01/2024, Adv. N. R. Pai appeared and placed on record an Affidavit of the incumbent PIO Shri. Rajat R. Parsekar duly executed before Notary Public dated 11/12/2023. I have perused the content of the Affidavit, in which it is categorically submitted on oath by the PIO that, upon the intensive search in the Panchayat records, Resolution No. 1(1) dated 05/12/2011 and correspondence No. VP/CHI/11/2011-12/37/1783 dated 13/12/2011 is not available in the records of Village Panchayat Chicalim, Mormugao, Goa.

He also contended that due to the construction of a new building of the Village Panchayat Chicalim, they temporarily shifted the office premises and it is probable that said documents might have been misplaced and lost in transit. In any case, at any time, the contents of the said Affidavit are found false, the person swearing it, would be liable for action for perjury.

10. The Hon'ble High Court of Punjab in the case **State of Punjab & Ors. V/s State Information Commissioner & Ors. (LNIND 2010 PNH 2809)** has observed as under:-

*"The delay was not inordinate and there was no contumacious misconduct on the part of the officer to supply to the petitioner the information. The penalty provisions under Section 20 of the RTI Act are only to sensitize the public authorities that they should act with all due alacrity and not hold up the information which a person seek to obtain. It is not every delay that should be visited with penalty. If there is a delay and it is explained, the question will only revolve on whether the explanation is acceptable or not."*

11. The Hon'ble High Court of Bombay at Goa in the case **A.A. Parulekar v/s Goa State Information Commission & Anrs. (2010 (1) Mh.L.J.12)** has observed as under:-

*"11. The order of penalty for failure is akin to action under Criminal Law. It is necessary to ensure that the failure to supply the information is either intentional or deliberate."*

12. In the present case, it is pertinent to note that on very first date of hearing the representative of the PIO has submitted that he is ready and willing to furnish the information. Upon the direction of the Commission the inspection of the records was granted to the Appellant on 28/11/2023 and accordingly available information has been provided to the Appellant. The PIO also filed his affidavit stating that the rest of the information is not available in the records of the Public authority. Since the available information has been provided by the PIO to the satisfaction of the

Appellant, I do not find any intentional or malafide delay on the part of the PIO.

13. Considering the facts and circumstances hereinabove, I am of the view that the PIO has acted bonafide and therefore, I find no grounds to invoke action under Section 20 of the Act, as prayed by the Appellant. Accordingly the matter is disposed off.

- Proceeding closed.
- Pronounced in the open court.
- Notify the parties.

Sd/-

**(Vishwas R. Satarkar)**

State Chief Information Commissioner